

SNELL & WILMER L.L.P.  
Alan L. Sullivan (3152)  
Todd M. Shaughnessy (6651)  
Amy F. Sorenson (8947)  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101-1004  
Telephone: (801) 257-1900  
Facsimile: (801) 257-1800

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U.S. DISTRICT COURT

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DISTRICT OF UTAH

BY: \_\_\_\_\_  
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CRAVATH, SWAINE & MOORE LLP  
Evan R. Chesler (admitted pro hac vice)  
David R. Marriott (7572)  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 10019  
Telephone: (212) 474-1000  
Facsimile: (212) 474-3700

*Attorneys for Defendant/Counterclaim-Plaintiff  
International Business Machines Corporation*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

**UNSEALED DECLARATION OF  
SAMUEL J. PALMISANO  
[Docket 333]**

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

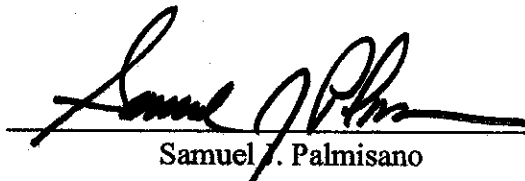
Magistrate Judge Brooke C. Wells

I, Samuel J. Palmisano, declare as follows:

1. I am the Chief Executive Officer and Chairman of the Board of Directors of International Business Machines Corporation ("IBM").
2. This declaration is submitted in connection with the lawsuit brought by The SCO Group, Inc. ("SCO") against IBM, titled The SCO Group, Inc. v. International Business Machines Corporation, Civil No. 2:03CV-0294 DAK (D. Utah 2003). I make this declaration based upon personal knowledge.
3. I allowed attorneys from IBM and Cravath, Swaine & Moore LLP to have unrestricted access to all of the documents in my possession or control, including hard copy documents, soft copy documents, and e-mails.
4. On February 18, 2004, two attorneys, and on February 19, 2004, one attorney, came to my office in Armonk, New York, and searched through my files for documents responsive to SCO's discovery requests. I did not withhold any documents from the attorneys' review.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 18, 2004.

Armonk, New York

  
Samuel J. Palmisano

**CERTIFICATE OF SERVICE**


I hereby certify that on the 19<sup>th</sup> day of November, 2004, a true and correct copy of the foregoing was hand delivered to the following:

Brent O. Hatch  
Mark F. James  
HATCH, JAMES & DODGE, P.C.  
10 West Broadway, Suite 400  
Salt Lake City, Utah 84101

and was sent by U.S. Mail, postage prepaid, to the following:

Stephen N. Zack  
Mark J. Heise  
BOIES, SCHILLER & FLEXNER LLP  
100 Southeast Second Street, Suite 2800  
Miami, Florida 33131

Robert Silver  
Edward Normand  
Sean Eskovitz  
BOIES, SCHILLER & FLEXNER LLP  
333 Main Street  
Armonk, New York 10504



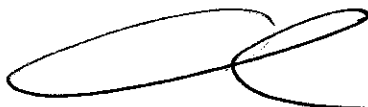
**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of May, 2005, a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid, to the following:

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